IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 18667 of 2007(V)

PETITIONER:

VISHNU S. NAIR, AGED 18 YEARS,
S/O. SALIMKUMAR, PUSHPAMANGALATHU HOUSE,
THRIKARIYOOR P.O., KOTHAMANGALAM,
ERNAKULAM DISTRICT.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.P.BIJU

RESPONDENTS:

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1. THE GOVERNMENT OF KERALA, REP. BY
SECRETARY, GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. THE COMMISSIONER FOR ENTRANCE
EXAMINATION, TRIVANDRUM.

3. THE CENTRAL BOARD OF SECONDARY
EDUCATION, REP. BY ITS DIRECTOR, NEW DELHI.

BY GOVT. PLEADER SRI.I.V.PRAMOD.
BY STANDING COUNSEL SRI.DEVAN RAMACHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

W.P(C) NO. 18667 OF 2007 - V

Dated this the 12th day of July, 2007

J U D G M E N T

The petitioner passed the C.B.S.E.Examination and wrote the common entrance test for admission to Engineering course in the State of Kerala. He claims to have scored very high marks in the Entrance Examination. However, he could not score 50% marks in Mathematics in C.B.S.E.Examination which is the minimum prescribed for eligibility for admission to the Engineering course. Therefore, the petitioner challenges the prescription of minimum of 50% marks for Mathematics in the qualifying examination. According to the petitioner, for the students who wrote the State Syllabus, they have the opportunity to write Save A Year Examination (SAY) and if they qualify in that examination, they would be entitled to admission. As per the CBSE Syllabus, only failed students can appear for the supplementary examination and there is no improvement examination provided. So also there is no provision for revaluation. According to the petitioner, this

amounts to discrimination. In the above circumstances, the petitioner seeks the following reliefs:-

> "i. declare that the insistence of separate 50% marks in Mathematics as a qualification for admission to Engineering course, as per para 6.2.2(a) of the prospectus for admission to the professional degree courses 2007 Kerala is not applicable to students who have passed the examination conducted by the 3rd respondent.
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> ii. issue a writ of mandamus or such other writ, order or direction, directing the respondents 1 and 2, to consider the petitioner for admission to Engineering Courses on the basis of the rank secured by him in the Entrance Examination, though he has not secured 50% marks in the subject Mathematics, in the qualifying examination.
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> iii. Issue a writ of mandamus or such other writ, order or direction, directing the 3rd respondent to permit the petitioner to appear for the improvement examination in the subject Mathematics scheduled to be conducted in July 2007 and direct the respondents 1 and 2 to take note of the marks obtained in that examination, while considering the candidature of the petitioner for admission to Engineering course.
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> And

iv. issue such other order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Regarding the challenge against prescription of 50% marks in Mathematics in the qualifying examination as eligibility for admission to Engineering course, for the last year, I have rendered a judgment upholding a similar prescription in respect of minimum marks a candidate should score in the entrance examination for eligibility for admission to Engineering course. The reasoning given for upholding that prescription squarely applies to the prescription of 50% marks in Mathematics in the qualifying examination as eligibility for admission to the Engineering course. In any event, the Supreme Court has time and again held that in the matter of admissions to professional courses, merit should be the sole criteria. Prescription of 50% marks in Mathematics in the qualifying examination as eligibility for admission cannot be held to be arbitrary in any case when the same is intended at ensuring merit based admissions. That being so, I do not find any merit in the

contention against that prescription. In view of the same, the petitioner is not entitled to the second relief also. Regarding the third relief, the C.B.S.E. do not provide for conducting any improvement examination. I cannot under law direct the C.B.S.E. To provide such facility to students. Therefore, the petitioner is not entitled to the third relief also.

In view of the above, the petitioner is not entitled to any reliefs in this writ petition and accordingly the same is dismissed.

S.SIRI JAGAN,
Judge

Mbs/